

Special Meeting of the
Board of TFD Fire Commissioners

DRAFT -- Meeting Minutes – October 6, 2020
Thompsonville Fire Station, 35 N. Main Street

1. Call to Order: by Comm. Perry at 6:00 pm.

2. Roll Call: present were Comm. Perry, Comm. Dodd, Comm. Bouthiette, Comm. Pliszka, and Comm. Bouthiette. Also present were Chief Deskis.

3. Discussion of Water Mains Legal Team:

MOTION *to hire the Updike, Kelly & Spellacy, P.C. for the legal representation for the Town of Enfield's fire protection water mains legal issue* made by Comm. Perry, seconded by Comm. Gillespie. Discussion: Comm. Perry said the legal firm will require a retainer fee of \$25,000 which would be \$5,000 from each fire district. Roll Call- Motion passed 5-0.

4. Adjourn:

MOTION *to adjourn* made by Comm. Dodd, seconded by Comm. Gillespie. All in favor by ayes at 6:03 pm.



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September 28, 2020

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Margaret Perry
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Dear Chiefs and Chairpersons:

We are pleased that the Enfield Fire District 1, the Hazardville Fire District, the North Thompsonville Fire District, the Shaker Pines Fire District and the Thompsonville Fire District collectively (“the Fire Districts”) have retained Updike, Kelly & Spellacy, P.C. to render legal

Updike, Kelly & Spellacy, P.C.

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services on their behalf. The purpose of this letter is to confirm the nature and scope of our engagement and our fee arrangement in connection therewith.

1. Scope of Engagement. The engagement will involve our representation of the Fire Districts in connection a matter presently pending in the Connecticut Superior Court known as Docket No. HHD-CV-20-6130874, Town of Enfield v. The Connecticut Water Company, et al. Our engagement may extend to such other matters as the Fire Districts may from time to time request.

Our engagement does not extend to any lobbying, public affairs or similar services which may be provided by our firm. Any such services shall be the subject of a separate engagement letter due to Connecticut ethics and sales tax requirements.

2. Fees and Hourly Rates. Our billing practice is to charge for our services based on the amount of time devoted to a matter at hourly rates for the particular attorneys and paralegals involved. These hourly rates are determined according to each individual's experience and demonstrated level of expertise. Attorney Bonnie Kumiega and I will be the principals of the firm responsible for our engagement. My current hourly rate is \$450. Attorney Kumiega's hourly rate is \$425. The hourly rates for other principals of the firm who may have involvement in matters on behalf of the Fire Districts range from \$335-\$495. Hourly rates for associate attorneys vary from \$270 for our newest associates to \$330 for those of senior status. We may also employ the services of paralegals from time to time, and they are billed at an hourly rate of \$250. Hourly rates are revised as of the end of each calendar year and new rates would apply to services rendered after January 1 of each year.

The time for which the Fire Districts will be charged will include, but will not be limited to: telephone and office conferences with clients, consultants and other parties; conferences among attorneys and other legal personnel; factual investigation; legal research; drafting of letters, agreements and other documents; and travel time during business hours.

3. Disbursements. In addition to the fees described above, we will bill the Fire Districts for all expenses and disbursements incurred by us in connection with our representation. These expenses and disbursements will be itemized on our statements and include, but are not limited to: photocopying; messenger and delivery services; computerized research; travel (including mileage, airfare, parking, meals, lodging and ground transportation); long-distance telephone; telecopying; word processing; service of process and court costs; express mail and overnight delivery charges; and filing and recording fees.

4. Monthly Statements and Payment Terms. Our practice is to send a monthly statement for services rendered and disbursements incurred during the previous month. The detail in the monthly statement will demonstrate the nature of the fees and disbursements being incurred. All statements will be due and payable upon receipt unless we have agreed to an alternative arrangement in writing. Statements not paid within thirty (30) days are subject to interest at 12% per year until paid in full.



We would request that you advise us of any special billing instructions relating to your account as well as the address to which statements should be mailed. If any questions or objections about a monthly statement may arise, we ask that they be raised promptly for discussion. If only a portion of a statement is considered to be objectionable, we ask that the remainder be paid, which payment will not be considered a waiver of your objection.

5. Retainer. It is the firm's policy to require a retainer for new clients. For this matter we are requesting a retainer of \$25,000.00. This retainer does not represent an estimate of the total charges which may be incurred, but is only a partial advance payment. This retainer will be held in our client trust account and (unless we otherwise agree in writing) be applied to our monthly statement. Any amounts due not paid from this retainer will be due and payable upon receipt of the monthly statement. Any retainer amount remaining after application to our final statement shall be returned to you.

6. Withdrawal from Representation. If you do not meet your obligations of timely payments under this agreement, we reserve the right to withdraw from this representation on that basis alone, subject, of course, to any required judicial or administrative approvals. In addition, upon the termination of our relationship for any reason, whether terminated early, or by the conclusion of the matter for which you have engaged us, if you request that we transfer our files to you, the company or to a third party, we agree to transfer to you the following (1) documents given to us by you or your agents; (2) deposition or other discovery documents pertinent to a litigation case for which you have been billed and have paid (such as expert witness opinions); and (3) pleadings and other court papers, (4) originals in our possession and a copy of any other contract or other transaction or estate plan document, survey maps, public record searches or consultant reports in our possession to which you are a party or which we prepared or obtained on your behalf, (5) copies of all our correspondence between us and you or others in connection with our representation of you and (6) any other documents we are required to deliver to you in accordance with applicable law and rules of professional conduct at that time. We will not deliver any documents or property which, under applicable law or rules of professional conduct, we are prohibited from delivering. Unless required by applicable law and rules of professional conduct, you agree we need not deliver either originals or copies of e-mails, our internal notes, internal memoranda, preliminary drafts, copies of research materials or accounting records. You agree that our usual hourly rates will apply to the assembly of a file for delivery in accordance with this paragraph, that we may retain a complete set of copies of any documents we deliver to you and that you will reimburse us for our costs in copying such documents. This agreement is also subject to termination by either party upon reasonable notice for any reason subject, again, to any required judicial or administrative approvals. Upon such termination, however, you will remain liable for any unpaid fees and costs as described above.

7. Arbitration. While we look forward to a mutually beneficial and enjoyable relationship with the Fire Districts, as you know, one of the jobs of a lawyer is to provide for the unanticipated. If any dispute, controversy or claim arises in connection with the performance or breach of this engagement agreement (including disputes regarding the validity or enforceability



of this agreement), either party may, upon written notice to the other party, request that the matter be mediated. Such mediation will be conducted by a neutral facilitator acceptable to both parties. Both parties will exert their best efforts to discuss with each other in good faith their respective positions in an attempt to finally resolve such dispute or controversy.

All such discussions, however, will not be admissible in any subsequent litigation against the disclosing party. Except as agreed by both parties, the mediator will keep confidential all information disclosed during the negotiations. The mediator may not act as a witness for either party in any subsequent arbitration between the parties.

The mediation proceedings will conclude within sixty days from receipt of the written notice unless extended or terminated sooner by mutual consent. The parties may also agree at any time to terminate or waive ongoing mediation. Each party will be responsible for its own expenses. The fees and expenses of the mediator, if any, will be borne equally by the parties.

If any dispute, controversy, or claim arises in connection with the performance or breach of this agreement (including disputes regarding the validity or enforceability of this agreement) and cannot be resolved by mediation, (or the parties agree to waive that process or a party does not respond to the other party's request that the matter be mediated within seven(7) days of receipt), we mutually agree that such dispute, controversy or claim will be settled by binding arbitration pursuant to the rules of the American Arbitration Association's arbitration program and that the arbitrator(s) may award reasonable attorney's fees to the prevailing party in such proceedings. The arbitration hearings will take place in Hartford, Connecticut.

Such arbitration shall be binding and final. In agreeing to arbitration, we both acknowledge that in the event of a dispute over fees charged by Updike, Kelly & Spellacy, P.C., each of us is giving up the right to have the dispute decided in a court of law before a judge or jury and instead we are accepting the use of mediation and/or arbitration for resolution.

In the event that the amount in controversy regarding a fee claimed to be due to the Firm is within the jurisdictional limits of the small claims procedures for the State of Connecticut, or if the Firm should elect to limit its claim to the amount within the jurisdiction of the small claims docket, then the Firm may bring an action to recover such fees in the small claims session of the Connecticut Superior Court in accordance with Chapter 24 of the Connecticut Rules of Court.

8. Governing Law; Choice of Forum. The validity, construction and performance of this agreement shall be governed by the laws of the State of Connecticut, without regard to the laws as to choice or conflict of laws. The venue of any dispute arising hereunder, including the site of arbitration, shall be in Connecticut.

9. Insurance. The firm maintains errors and omissions coverage applicable to the services to be rendered.



10. Future Services. The terms and conditions of this agreement will also apply to services rendered for all future matters that we mutually agree will be handled by our firm. The Fire Districts agree to pay any retainer for future services within 10 days of a request therefore.

11. Retention of Documents. Upon the closing of this matter, you may request that any original documents in the file be returned to you. If at any time you request the original file, you agree to pay the cost associated with the copying of the file so that Updike, Kelly & Spellacy, P.C. may retain a copy of the file for its records. You also agree to pay all copying costs associated with your request for a copy of the file or any portion thereof. At the end of ten years from the completion of this matter (fifteen years, if it is a real estate matter), all records will be destroyed without further notice.

12. E-mail and Facsimile Communication. In connection with this engagement, we may communicate with you or others via e-mail or facsimile transmission. As these types of transmissions can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that e-mails and/or facsimiles from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure or communication of e-mail and/or facsimile transmissions, or for the unauthorized use or failed delivery of e-mails and/or facsimile transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of e-mail and/or facsimile transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of sales or anticipated profits, or disclosure or communication of confidential or proprietary information.

13. Meritas. Our firm is a member of Meritas, a network of over 150 independent commercial law firms, located in major cities throughout the world. While Meritas members are not engaged in the joint practice of law and do not share fees among themselves, membership in Meritas gives us, and our clients, important access to competent, legal resources in other jurisdictions and specialty areas of practice so that our clients' needs for legal services can be handled efficiently virtually anywhere. While we will only work alongside and utilize the services of another Meritas firm in this matter with your express knowledge and consent, we want you to be aware of Meritas and its possible benefits to you. Further information about Meritas can be obtained at the organization's website at www.meritas.org.

If this letter correctly sets forth your understanding of the scope of the services to be rendered to the Fire Districts by Updike, Kelly & Spellacy, P.C., and if the terms of the engagement are satisfactory, please execute a copy of this letter and return it to us. If the scope of the services described is incorrect, or if the terms of the engagement set forth in this letter are not satisfactory to you, please let me know in writing in order that we may discuss either aspect.



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We appreciate the opportunity to represent you and look forward to working with you and to a successful relationship. Thank you for your confidence in selecting our firm.

Very truly yours,

A handwritten signature in black ink, reading "Robert M. DeCrescenzo". The signature is written in a cursive, flowing style with a large initial "R".

Robert M. DeCrescenzo, Esq.

RMDe/psm
Enclosure

WE HAVE READ THE FOREGOING THOROUGHLY AND CAREFULLY AND AGREE TO ACCEPT EACH OF THE ABOVE TERMS AND CONDITIONS. WE REPRESENT AND WARRANT THAT WE HAVE FULL POWER AND AUTHORITY TO EXECUTE THIS DOCUMENT.

Enfield Fire District 1 By _____ Edward N. Richards Date _____ Fire Chief Duly Authorized	Enfield Fire District 1 By _____ Vincent Grady Date _____ Chairman Duly Authorized
Hazardville Fire District By _____ John Flanagan Date _____ Fire Chief Duly Authorized	Hazardville Fire District By _____ Richard Tkacz Date _____ Chairman Duly Authorized
North Thompsonville Fire District By _____ Earl F. Provencher Date _____ Fire Chief Duly Authorized	North Thompsonville Fire District By _____ Jason Jones Date _____ Chairman Duly Authorized
Shaker Pines Fire District By _____ Charles Macsata Date _____ Fire Chief Duly Authorized	Shaker Pines Fire District By _____ Douglas Maxellon Date _____ Chairman Duly Authorized
Thompsonville Fire District By _____ David Deskis Date _____ Fire Chief Duly Authorized	Thompsonville Fire District By _____ Margaret Perry Date _____ Chairman Duly Authorized